

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Ravenwood/Highlander, LC,**  
Petitioner-Appellant.

v.

**Polk County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 09-77-1123**  
**Parcel No. 320/04928-278-021**

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On October 13, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Ravenwood/Highlander, LC was represented by Attorney William R. Stiles, Dickinson Law Firm, Des Moines, Iowa. The Polk County Board of Review was represented by Assistant County Attorney Ralph Marasco, Jr. The Appeal Board now having examined the entire record, having heard the testimony, and being fully advised, finds:

***Findings of Fact***

Ravenwood/Highlander, LC (Ravenwood), owner of property located at 3530 Westown Parkway, West Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing its property. The real estate was classified commercial for the January 1, 2009, assessment and valued at \$1,931,000; representing \$1,400,000 in land value and \$531,000 in improvement value. Ravenwood protested to the Board of Review on the ground the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). It asserted the fair market value was \$1,600,000. The Board of Review denied the protest and notified Ravenwood the January 1, 2009, assessment "was not changed because market data indicates that the property is assessed at fair market value."

Ravenwood then appealed to this Board, asserting the same ground. The only issue before PAAB is whether the property is assessed for more than authorized by law. Iowa Code § 441.37(1)(b). Ravenwood seeks \$331,000 in relief and believes the correct assessment is \$1,600,000; allocated \$1,200,000 to land and \$400,000 to the improvements.

The subject property, locally known as Westown Residences, is a 100-unit extended stay, limited service hotel/motel built in 1972. The building is a concrete block-type structure and has 57,425 square feet. The site consists of 4.227 acres but the subject parcel is a building on leased land. Notwithstanding, the land is assessed to Ravenwood.<sup>1</sup> The building includes an area within the structure leased to a restaurant/pub (Keg Stand) and a small area leased to a French Way dry cleaner.<sup>2</sup> The building is secure and access to the individual units is through interior corridors. The first floor units also have a patio and patio entrance. The second floor units have interior corridor access and balconies.

The record indicates the subject property was revalued for January 1, 2009, as part of an Executive Summary Report ("Report") completed by the Polk County Assessor's office. The Report was requested by the Board of Review to ensure the January 1, 2009, hotel/motel assessments in Polk County were equitable. According to the Report, it considered seven appraisals of hotel properties completed from January 2006 to January 2009. It was not stated how many, if any, appraisals developed and relied on a sales comparison approach. The assessor concluded the limited number of sales made the sales approach to value unreliable. The Report relied primarily on the income and cost approaches to value. The assessor's office surveyed ninety-six hotel properties in an attempt to gather income and expense data. It received information on forty of the properties. The Report also considered market data from Smith Travel Research.

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<sup>1</sup> Deputy Assessor Mark Patterson testified the assessor's office will assess a tenant for the land if the lease requires the tenant to pay the property taxes on the value of the land.

<sup>2</sup> Neither party addressed the rental income from the bar or cleaners, but we assume this income was included with the income reported on the 2008 income tax return and considered as part of the income approaches.

Philip Schneider of Philip Schneider Associates, Inc., part-owner and manager of Ravenwood testified at hearing. Schneider testified that he is a CPA, JD, has a professional appraiser designation, and has been conducting business valuations since he began his business in 1976.

Schneider testified the subject property was a franchise flagged (Ramada) motel when he purchased the improvements in 2002 for \$870,000. Schneider stated he spent about \$400,000 replacing the roof, boiler and cooling tower, remodeling two exterior sides of the building, and making other improvements. Schneider stated the property was losing money as a motel so new management changed it to an “extended stay” operation. Now that the subject is an independent, “unflagged,” property, it is Schneider’s opinion it will not sell for the same price as a franchised, “flagged,” property. He stated that to operate as a franchise requires a large franchise fee, plus remodeling costs associated with the franchise-upgrade requirements. Schneider indicated he leases the land and pays taxes on the land according to the lease agreement. He believed the land lease had around eighteen years remaining.

Schneider testified he tried to understand the January 1, 2009, assessment by looking at the assessor’s data and comparing it to sales of comparable property. Schneider’s testimony focused on Comparable 1—the Valley West Inn located across the street. Schneider stated that property sold in April 2009 for around \$2,000,000, or around \$15,300 per room. Schneider believed the Valley West Inn was a superior comparable, having an enclosed pool, diner, bar, and half of its rooms “rehabbed.” but he believed the sales price per room (\$15,300) was lower than the subject’s assessed value per room (\$19,300).<sup>3</sup> Schneider generally disagreed with the remaining comparables generated by a search of the Polk County Assessor’s website but did not elaborate on any sales data. He mainly asserted the sale price of the Valley West Inn showed his property’s assessment was more than its fair market value.

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<sup>3</sup> As explained later, there is conflicting evidence regarding the Valley West Inn’s April 2009 sale price.

Schneider also developed an income approach to value. His income approach was based on the income approach prepared by Deputy Assessor Mark Patterson for the 2009 Board of Review protest hearing, with two main differences. First, Schneider believed Patterson's allocation to reserves for replacement was insufficient, and Schneider allocated \$36,380 instead of \$18,190. Schneider stated he "just doubled" reserves because his experience told him \$18,190 was insufficient for the building. We note, however, Ravenwood did not list replacement reserves in its tax return, and apparently reported "None" for replacement reserves in Exhibit F.

Second, Schneider took issue with the assessor's 10% capitalization rate. He believes the 10% return on equity and debt is too low and the assessor lacked sales data to comprise a valid base for comparison to the extended stay property. Schneider asserted that in mid-2008, the economy was in decline. He opined the rate of return to buyers was high and the cost of money was expensive resulting in a higher capitalization rate. In his opinion, the capitalization rate should be 12%, which would result in a fair market value of \$1,600,000. Schneider did not submit any data for support; he only relies on his experience and expertise.

Patterson was called by Ravenwood to testify at the hearing. Patterson testified that he heard the county obtained an appraisal for this appeal. However, he testified he had not seen the appraisal.<sup>4</sup> He also testified he could not remember if he was at the Board of Review hearing. Patterson stated he took part in the Executive Summary Report and determined the subject's original assessed value for January 1, 2009. Patterson also completed a Board of Review Appraiser Analysis that recommended the Board of Review deny the protest.

Patterson stated the Report's data did not allow them to develop reliable mass appraisal models. He also asserted Polk County did not believe there were sufficient sales of comparable properties to

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<sup>4</sup> PAAB addressed this issue in a previous procedural order.

value the subject using the preferred sales comparison approach. Patterson stated the subject property was assessed using the income method.

Patterson set the original value for January 1, 2009, at \$1,931,000 (Exhibit I) by using data in the Report and data from Smith Travel Research. After Ravenwood protested to the Board of Review, Patterson completed an income approach based on the actual rents provided by Ravenwood. These figures were based largely on Ravenwood's 2008 tax returns (Exhibits F & 19). This second analysis valued the property at \$2,000,000, rounded. As a result, Patterson recommended the assessment remain at \$1,931,000. Patterson testified he did the cost approach to value, but he failed to "press the button" to make that value appear in his analysis. Therefore, only Patterson saw his cost approach which concluded a value of around \$4,160,000. Patterson stated this approach was not reliable.

Patterson allocated \$18,190 for reserves for replacement. He testified he looked at appraisals, the age of the property, and data from Smith Travel Research in reaching this figure. Patterson cited the Smith data as listing a range for replacement for reserves at .10%-2.5% of effective gross income. He stated the assessor used 3% to be conservative.

The Board of Review's Exhibit C provided capitalization rate information from both local and national sources. The local capitalization data came from sales and appraisals done by outside fee appraisers. This data indicated a median capitalization rate of 9-10%. National and regional data indicated median capitalization rates at 7-9%. Exhibit E included data from the Real Estate Research Corporation showing a 7% median capitalization rate for Midwest hotel properties for the 2008 calendar year.

For additional support of a 10% capitalization rate, the Board of Review submitted two appraisals of another Schneider property located at 11040 Hickman.<sup>5</sup> These appraisals valued the property for January 1, 2009. Like the subject, this property was a former full-service hotel that was

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<sup>5</sup> Both the Board of Review and Schneider had an appraisal done for the property at 11040 Hickman.

changed to an extended stay operation. The Nelsen appraisal (Exhibit W) applied a 9% capitalization rate and the Anderson appraisal (Exhibit V) applied 9.25%. The Board of Review applied a 10% capitalization rate in valuing the subject property. Schneider stated the property at 11040 Hickman is newer than the subject and can therefore support a lower capitalization rate. But according to the appraisals, the building at 11040 Hickman was built in 1974 and remodeled in 2005, and the subject was built in 1972 with some updates/repairs made in 2003.

While Schneider testified the Valley West Inn sold in April 2009 for just over \$2,000,000, or \$15,300 per room, both the Nelsen and Anderson appraisals indicate the Valley West Inn sold in April 2009 for \$2,700,000. Assuming the reported sale price did not deduct for personal property, and estimating around \$200,000 for personal property, the Valley West Inn sold in 2009 for approximately \$19,000 per room (\$2,500,000/131 rooms). Schneider's property is assessed at \$19,300 per room and the sale of the Valley West Inn does not support Schneider's contention the subject property is over-assessed.

We note that both Nelsen and Anderson found there were sufficient comparable sales to utilize that approach to value the property at 11040 Hickman. The Board of Review's Exhibit C also references sales and appraisals, which presumably also considered sales. While there appears to be ample evidence of sales in the record, the evidence and testimony in this case was that the Board of Review could not readily determine the subject property's value using sales of comparable properties. Patterson testified there was a sales approach done "internally" but the properties were not that comparable and would need large adjustments, limiting their reliability. Schneider did not develop an independent sales comparison approach. Schneider's testimony on the sales approach focused on the sale of the Valley West Inn across the road. He believed this sale alone supports a claim that his property was assessed for more than market value. Schneider accepted the Board of Review's position that the property should be valued using the income approach and he reconstructed an income

approach. But Schneider submitted no information to support his capitalization rate of 12% or to support what the correct dollar amount should be for reserves for replacement.

The Board of Review's position that there are insufficient sales to consider the preferred sales comparison approach is tenable. Additionally, Schneider did not argue that the property should be valued using the sales comparison approach. The Valley West Inn sale does not establish that the subject property is assessed for more than authorized by law. While the Board has concerns with Patterson's testimony regarding his method of valuing the subject property and the lack of consideration of the sales comparison approach, we ultimately conclude that Ravenwood's income approach does not show that the property is assessed for more than authorized by law.

Reviewing all the evidence, we find the preponderance of evidence does not support Ravenwood's claim that the property is over-assessed. The burden of proof lies with Ravenwood, and they failed to show that the property was assessed for more than authorized by law.

### *Conclusions of Law*

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).


In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). There is a statutory preference for establishing market values using sales of comparable properties. *Soifer v. Floyd County Board of Review*, 759 N.W.2d 775, 779 (Iowa 2009). To be comparable, the property must only be similar, not identical. *Bartlett & Co. Grain v. Bd. of Review*, 253 N.W.2d 86, 93 (Iowa 1977) (citing *Redfield v. Iowa State Highway Comm'n.*, 99 N.W.2d 413, 418 (Iowa 1959)). If the value cannot readily be determined using comparable sales, other factors such as the property's income may be considered. Iowa Code § 441.21(2).

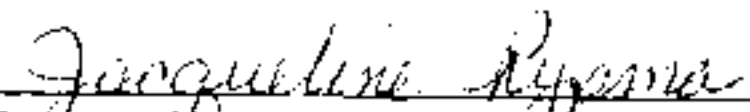
While there was a lot of discussion regarding appraisals and sales data, the record does not show that the property can be readily valued using the sales comparison approach. Both parties focused on the income approach to value and Ravenwood failed to meet its burden of proving the property was assessed for more than market value.

Viewing the evidence as a whole, the preponderance of the evidence does not support a claim that the property is over assessed. Therefore, we affirm the property's assessed value as of January 1, 2009, is \$1,931,000.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Polk County Board of Review, is affirmed.

Dated this 15 day of December, 2011.

  
Richard Stradley, Presiding Officer

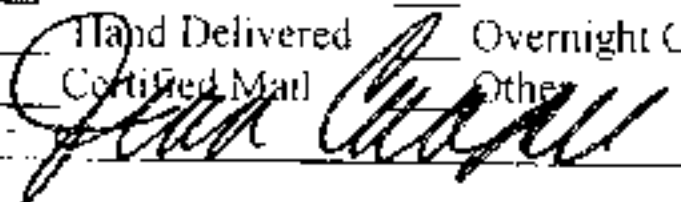
  
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| Certificate of Service                                                                                                                                                                                                                |                                                                                     |
| The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12-15</u> , 2011. |                                                                                     |
| By:                                                                                                                                                                                                                                   | <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX          |
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